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PLANNING DEPARTMENT
COUNTY OF HAWAII

From: sdtobaja <sdtobaja@aol.com>
Sent: Wednesday, October 01, 2014 2:45 PM
To: Planning Internet Mail
Subject: Public Access Rights

2014 OCT -1 PM 4:36

Hawaii County Planning Dept
Attn Duane Kanuha

The attached web link identifies the subject matter of my letter. <http://www.hawaiicounty.gov/pl-s-kona-map1>

I am requesting corrective action to allow for the proper public access to Hokulia Beach. I understand that it is a violation to block or refuse access to an established county access point and potentially punishable with a fine of up to 1000 dollars for the first violation and 2000 for a second. Using the Hawaii county website I sought access at the site designated in South Kona Map1 September 30, 2014 at approximately 11am. I was denied access by Hokulia Private Security Supervisor named only to me as Rebecca, she stated the beach was closed because wave action made it dangerous. When I asked under whose authority, I was told hers alone, she made the decision and has the authority to do so and asked that I leave. I asked from who within the state or county she secured her order and she proceeded to walk me to the county coastal access sign to point out the cautions, thus her authority.

If she has the authority I am seeking state and county statues that direct when she can close beach areas and under what authority the state and county can delegate their responsibility to a private party to remove that public access. If I have read the code properly Hokulia Security and the Home Owners of that location as her boss were in violation of the law and subject to a fine. I find nowhere they have the authority to do so unless a Government public safety official so designates that they can close the access. I have attached the HRS statute for reference and there is nothing that authorizes private party closure.

2009 Hawaii Code
Volume 02

TITLE 9 - PUBLIC PROPERTY, PURCHASING AND CONTRACTING CHAPTER 115 - PUBLIC ACCESS TO COASTAL AND INLAND RECREATIONAL AREAS
§115-9 - Obstructing access to public property; penalty.

[§115-9] Obstructing access to public property; penalty. (a) A person commits the offense of obstructing access to public property if the person, by action or by having installed a physical impediment, intentionally prevents a member of the public from traversing:

- (1) A public right-of-way;
- (2) A transit area; or
- (3) A public transit corridor;

and thereby obstructs access to the sea, the shoreline, or any inland public recreational area.

(b) Physical impediments that may prevent traversing include but are not limited to the following:

- (1) Gates;
- (2) Fences;
- (3) Walls;



- (4) Constructed barriers;
 - (5) Rubbish;
 - (6) Security guards; and
 - (7) Guard dogs or animals.
- (c) Obstructing access to public property is a misdemeanor.
- (d) Minimum fines for violation under this section shall be as follows:
- (1) \$1,000 for a second conviction; and
 - (2) \$2,000 for any conviction after a second conviction.
- (e) As used in this section:

"Person" means a natural person or a legal entity.

"Public recreational area" means public lands or bodies of water opened to the public for recreational use.
[L 2004, c 169, §2]

Thus, I would like to file a formal complaint requesting corrective action from County Planning to insure and educate Hokuia Security such that they understand they must grant the legal public beach access when properly requested. That only state or county officials through documented channels can make the determination to prevent and close access and not because a private security guard decides they don't want to allow access. If the authorized area for parking is available then baring an official costal evacuation order our beaches and coastline access have to remain open. Please respond to the follow address with any documentation and information.

see attached for legal precedent. <http://seagrant.soest.hawaii.edu/public-access-rights>
http://seagrant.soest.hawaii.edu/sites/seagrant.soest.hawaii.edu/files/shared/public_shoreline_access_policies_and_programs_in_hawaii_0.pdf

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